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**A. Patients' Right to Dental Health care  
Freedom**

**B. Proposed Rule 64B5-17.014**

**C. Proposed Rule 64B5-4.002**

# PATIENTS' RIGHT TO DENTAL HEALTH CARE FREEDOM

**Citizens for Health Freedom** is a Florida based organization of patients and practitioners supporting patients' rights to have access to responsible medical alternatives from licensed health care professionals. Of particular concern is the availability of complementary and alternative medicine (CAM) to Florida's consumers who seek treatment options.

**THE PROBLEM:** The Florida Dental Board, at the recommendation of the Florida Dental Association, has passed rules on complementary and alternative health procedures in contravention of the **Health Freedom Law** (S1324 – Chapter 2001-116), which gives patients the right to receive, and licensed health care practitioners the right to provide, complementary and alternative health care with informed consent. **THE DENTAL BOARD IS TRYING TO ACCOMPLISH BY RULEMAKING WHAT THEY COULD NOT IN OPPOSING THE LEGISLATION!**

- a) On 8/18/01, the Dental Board passed **Rule 64B5-4.002 – Advertising and Soliciting by Dentists**, which will now be approved/disapproved by the Joint Administrative Procedures Committee (JAPC). The rule states that it is false, fraudulent, misleading and likely to appeal to a layperson's fears to advertise removal of mercury amalgam fillings for the purpose of curing, preventing, or diagnosing systemic diseases because such representation "is not based on accepted scientific knowledge or research." (The Board also considered, but withdrew due to 1<sup>st</sup> amendment concerns, **Rule 64B5-4.006: Advertising of Mercury Free Dentistry**: No licensee may advertise the availability of 'mercury-free' dentistry or the removal of amalgam fillings to the public because such advertising appeals primarily to laypersons' fears.)
- b) On 9/28-9/01, the Dental Board passed draft **Rule 64B5-17.014 – Removal of Amalgam Fillings**, which prevents a patient from receiving, and a dentist from providing, removal of amalgam (mercury) fillings if a patient does not experience allergic reactions, and suspends or revokes a dentist's license for removing amalgams for any other reason (e.g., for prevention or reduction of mercury toxicity or cosmetic or reconstruction purposes). The rule alleges that removal of mercury fillings does not meet the minimum standards of performance for competent dental practice and there is no scientifically valid evidence that amalgam fillings cause pain, deformity, deficiency, or physical conditions.

**WHY THAT'S A PROBLEM:** The proposed Dental Board Rules prevent citizens from having access to the complementary and alternative health care method of removal of mercury amalgams. *What is hazardous waste before and after it goes in the mouth, the Dental Board is claiming is safe in the mouth!* **Even the Fla. DEP imposes hazardous waste precautions for extracted teeth with mercury amalgam fillings.**<sup>1</sup> Also, there is significant evidence that mercury fillings are a significant cause of over 40 chronic conditions, and removal of mercury fillings has resulted in recovery in over 60,000 clinical cases.<sup>2</sup> The proposed rules directly conflict with laws in Florida<sup>3</sup> and other states and countries that restrict the use of amalgams in women of child bearing age and children and require warnings to patients of the health risks in mercury fillings. (e.g. Maine, Cal., Arizona, Col., Canada, Australia, Great Britain, Germany, Sweden, Norway, Austria, Japan.

**THE SOLUTION WE PROPOSE:** prevent the Florida Dental Board from overturning Florida Law by:

- ◆ Urging disapproval by the JAPC of Rule 64B5-4.002 – Advertising and Soliciting by Dentists.
- ◆ Urging the Dental Board to reject draft Rule 64B5-17.014 – Removal of Amalgam Fillings.

<sup>1</sup> State of Florida Department of Environmental Protection, *Best Management Practices for Scrap Dental Amalgam – Guidelines for Dental Offices*, October 2001.

<sup>2</sup> <http://www.home.earthlink.net/~berniew1/indexd.html> (detailing 1,500 uncontroverted peer review articles on the National Institute of Health's website: 1) substantiating that mercury fillings are a significant cause of over 40 chronic health conditions and describing over 60,000 clinical cases of recovery from these 40 chronic conditions after amalgam replacement and treatment; 2) amalgams in people resulting in mercury in sewage are a major and significant source of mercury in fish and sufficient to cause levels that lead to health warnings from the EPA advising against eating the fish in over half the lakes and rivers in Florida; and 3) children have significant exposure to mercury in the womb and from mothers' breast milk as a result of mercury in amalgams, which has been linked to a significant number of developmental conditions/birth defects.

<sup>3</sup>Letter from Suzanne G. Printy, Chief Attorney, JAPC, to Edwin Bayo, Ass. Att. Gen., 11/27/01 (citing the Dental Board's lack of authority to make evidentiary presumptions of Rule 64B5-4.002 and suggesting the rule is arbitrary and capricious).

(1a)

latest version  
of Amalgam  
Removal

Rule Presented to  
Board

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-17.014 Removal of Amalgam Fillings

The Board of Dentistry has determined pursuant to Sections 466.001, 466.004, 466.019 and 466.028(1)(d), (l), (w), (x), (y), and (ff), Florida Statutes, that removal of amalgam fillings from non-allergic patients for the alleged purpose of removing toxic substances from the body does not meet the minimum standards of performance for competent dental practice in Florida and poses an inherent danger to the public.

Specific Authority 466.001, 466.004, 466.005, 466.019 FS.

Law Implemented 466.028(1)(d), (l), (w), (x), (y), (ff) FS.

History—New

From New Mtg.  
allergic to amalgams

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THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-4.002 Advertising and Soliciting by Dentists.

(1) and (2) No change.

(3) No dentist shall disseminate or cause the dissemination of any advertisement or advertising which is in any way fraudulent, false, deceptive, or misleading in form or content. Additionally, no dentist shall disseminate or cause the dissemination of any advertisement or advertising which:

(a) through (f) No change.

(g) Is intended or is likely to appeal primarily to a layperson's fears. For example, it is false, fraudulent and misleading as well as likely to appear primarily to a layperson's fears for a dentist to advertise removal of mercury amalgam fillings or restorations for the alleged purpose of curing, preventing or diagnosing systemic diseases. It is false, fraudulent and misleading and likely to appeal primarily to a layperson's fears because recommending or performing the removal of amalgam restorations based upon the dentist's representation that removal has the capacity to diagnose, cure or alleviate diseases, infections or other conditions is not based upon accepted scientific knowledge or research.

(4) through (6) No change

Specific Authority 466.004(4), 466.019 FS.

Law Implemented 466.019, 466.028(1)(d) FS.

History- New 7-7-87, Amended 1-11-89, 10-29-90, 4-24-91, 7-14-92, Formerly 21G-4.002,

Amended 3-30-94, Formerly 61F-4.002, 59Q-4.002, Amended 5-20-01 \_\_\_\_\_